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**GENERAL STATEMENTS AND RESPONSES**  
**TO THE AMENDED COMPLAINT**

On March 25, 2003, this Court granted Rebecca Mark-Jusbasche's motion to dismiss claims under the Securities Exchange Act of 1934, including claims under §§ 10(b), 20(a), and 20A (15 U.S.C. §§78j(b), 78t(a), and 78t-1)). *See Newby, et al., v. Enron, et al.*, C.A. No. H-01-3624 (S.D. Tex. Mar. 25, 2003) Instrument No. 1300 ("Dismissal Order"), at 15. The Court also granted Mark-Jusbasche's motion to dismiss claims for "controlling person" liability alleged under § 15 of the 1933 Act (15 U.S.C. §77o). *Id.* With respect to the sole § 11 claim pled against Mark-Jusbasche under § 11 of the Securities Act (15 U.S.C. §77k) based on the 7% Notes (chart of § 11 claims at ¶ 1006, *Newby Compl.*), the Court denied the motion to dismiss, noting that it had earlier granted Lead Plaintiff leave to amend to add claims on the 7% Notes following the withdrawal of named plaintiff van de Velde and hence "views as pending a 7% Notes claim against Mark-Jusbasche." Dismissal Order at n.2; *see also Newby* (S.D. Tex. Mar. 12, 2003) Instrument No. 1269 ("March 12 Dismissal Order") at 59 (denying Joint Motion of Certain Defendants to Strike Pulsifer Class Action Complaint [Inst. #1042] and granting Lead Plaintiff "leave to supplement the Complaint with the *Pulsifer* claims<sup>1</sup> on the 7% Notes, once the Court has finished reviewing the motions to dismiss and sets a deadline for such amendment"). In the Amended Complaint filed May 14, 2003, Lead Plaintiff has substituted Plaintiff Nathaniel Pulsifer, Trustee of the Shooters Hill Revocable Trust ("Pulsifer") for

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<sup>1</sup>The Pulsifer Class Action Complaint asserts a class action claim under § 11 of the Securities Act with respect to the 7% Exchangeable Notes due 7/31/02 issued by Enron Corp. pursuant to a Registration Statement and Prospectus dated August 10, 1999 (the "7% Notes"). Pulsifer Class Action Complaint, paragraph 1. These are the same 7% Notes which formed the basis of Lead Plaintiff's sole § 11 claim against Mark-Jusbasche. *Newby Compl.*, chart at ¶ 1006.

van de Velde as the named plaintiff and proposed class representative with respect to the § 11 claim on the 7% Notes. Amd. Compl., ¶¶ 81q and 1006. Mark-Jusbasche accordingly files this responsive pleading as required by Rule 12(a)(4)(A) to the sole remaining claim, under § 11, without waiver of any defense or other objection, and in particular without waiver of the right to move for dismissal of such claim pursuant to the Private Securities Litigation Reform Act and Fed. R. Civ. P. 12(b)(6) pursuant to the Court's scheduling orders.

Plaintiffs' § 11 claim (Third Claim for Relief), found in ¶¶ 1005-1016 of the Amended Complaint, expressly incorporates only ¶¶ 75-86, 101, 103, 104, 108, 121, 124, 126, 134-135, 141, 151, 164-165, 236, 336, 384, 419, 421, 447-448, 450, 518, 610, 612-641, and 986-991 of the Amended Complaint. Plaintiffs also "expressly exclude and disclaim any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as this claim is based solely on claims of strict liability and/or negligence under the 1933 Act." Amd. Compl., ¶ 1005. While Plaintiffs do not re-allege any dismissed claim against Mark-Jusbasche, Plaintiffs did not delete from the Amended Complaint all averments contained in the non-incorporated paragraphs of the Amended Complaint pertaining to the 1934 Act claims that the Court has already deemed insufficient and dismissed pursuant to the Dismissal Order.<sup>2</sup> Because the Court has dismissed all other claims against Mark-Jusbasche, *see* Dismissal Order, averments in the non-incorporated paragraphs of the Amended Complaint are not part of the "claim asserted" for purposes of Rule 8(b) and require no

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<sup>2</sup>For example, Plaintiffs failed to include Mark-Jusbasche in the list of directors in n.2 (¶ 2) who "are not sued for fraud, but rather, only under non-fraud provisions of the 1933 and 1934 Acts. No allegations of fraud are made against or directed at these defendants." Mark-Jusbasche should be included in that list, as no fraud claims are alleged as to her in the Amended Complaint.

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response. To the extent that this Court may determine that a response to the averments of those non-incorporated paragraphs is required pursuant to Rule 8(d) or otherwise, Mark-Jusbasche denies all averments in those paragraphs purporting to relate to her. Mark-Jusbasche specifically denies that she is sued under the Securities Act of 1933 or under any provision of the Securities Act other than the sole § 11 claim on the 7% Notes. By way of further response (should further response be necessary), Mark-Jusbasche further adopts by reference, pursuant to Fed.R.Civ.P. 10(c), the Dismissal Order, Rebecca Mark-Jusbasche's Motion to Dismiss (Docket Entry #597), Rebecca Mark-Jusbasche's Memorandum in Support of Her Motion to Dismiss (Docket Entry #598), and Rebecca Mark-Jusbasche's Reply Memorandum in Support of Her Motion to Dismiss (Docket Entry #903).

**SPECIFIC RESPONSES TO THE PARAGRAPHS  
OF THE AMENDED COMPLAINT**

No response is required to the so-called "Preamble," or the numerous headings, subheadings, or quotations scattered intermittently throughout the Amended Complaint between headings and/or numbered paragraphs. To the extent that responses are required, however, all are denied.

1-74. The averments in these paragraphs have been dismissed against Mark-Jusbasche by virtue of the Dismissal Order, and hence require no response. Plaintiffs continue to state in n.2, ¶ 2, that certain defendants "are not sued for fraud, but rather, only under certain non-fraud provisions of the 1933 and 1934 Acts," omitting Mark-Jusbasche from the list: Mark-Jusbasche specifically denies she is sued for fraud. *See* Dismissal Order. The averments in these paragraphs also are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no

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response. To the extent any response is required, or to the extent these paragraphs contain specific averments about or purporting to pertain to Mark-Jusbasche or her conduct, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required as to any specific averments about Mark-Jusbasche, these averments are denied.

75. Mark-Jusbasche admits that Plaintiffs have purportedly asserted claims under the Securities Act of 1933, but denies that any claim exists against her under § 15, as such claims against her were dismissed (*see* Dismissal Order), and further denies that any claim exists against her under § 12(a)(2) of the Securities Act, as Plaintiffs have asserted no such claim as to her. *See* Amd. Compl. ¶¶ 1016.1-1016.24. Mark-Jusbasche denies that claims exist against her under the Securities Exchange Act of 1934 and Rule 10b-5, as all such claims against her were dismissed. *See* Dismissal Order at 15. Mark-Jusbasche further denies that any claim exists against her under the Texas Rev. Civ. Stat., art. 581-33, as Plaintiffs asserted no such claim as to her. *See* Amd. Compl. ¶¶ 1016.25-1016.28.

76. This Court lacks subject matter jurisdiction over the claims against Mark-Jusbasche under the Securities Exchange Act of 1934, as all such claims against Mark-Jusbasche were dismissed. *See* Dismissal Order at 15. Subject matter jurisdiction of the pending § 11 claim against Mark-Jusbasche under the Securities Act of 1933 exists, but Mark-Jusbasche denies that she is liable to the Plaintiffs under any provision of the Securities Act of 1933.

77. Venue is proper in this District under § 22 of the Securities Act of 1933. Venue is not proper against Mark-Jusbasche under § 27 of the Exchange Act of 1934, because claims against

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Mark-Jusbasche under the 1934 Act have been dismissed. *See* Dismissal Order at 15. Mark-Jusbasche admits that Enron maintains its principal place of business in this District. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of any remaining averments in this paragraph, and therefore they are denied.

78. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the averments of this paragraph concerning the conduct of other Defendants. Mark-Jusbasche denies the averments insofar as they relate to her.

79. Mark-Jusbasche admits that the Regents of the University of California is the Court-appointed Lead Plaintiff in this action. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

80. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the averments of this paragraph, and therefore they are denied.

81(a)-(n). Mark-Jusbasche denies liability to any other plaintiff, including specifically Plaintiff Pulsifer. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the remaining averments of these paragraphs, and therefore they are denied.

82. Mark-Jusbasche admits that Enron has filed for bankruptcy protection pursuant to Chapter 11 of the U.S. Bankruptcy Code. She lacks sufficient knowledge or information to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(a). Mark-Jusbasche admits that Kenneth L. Lay was a director of Enron and the Chairman of its Board of Directors, and that he served as Enron's Chief Executive Officer at various

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times during the alleged class period. Mark-Jusbasche also admits that Lay received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Lay's salary and bonus payments for the years 1993-2000 are disclosed in Enron's annual Proxy Statements for the years 1996-2001. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(b). Mark-Jusbasche admits that Jeffrey K. Skilling was a director of Enron, as well as President, Chief Operating Officer, and Chief Executive Officer of Enron at various times during the alleged class period. Mark-Jusbasche also admits that Skilling received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Skilling's salary and bonus payments for the years 1994-2000 are disclosed in Enron's annual Proxy Statements for the years 1997-2001. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(c). Mark-Jusbasche admits that Andrew S. Fastow was Enron's Chief Financial Officer until his employment was terminated in October 2001. Mark-Jusbasche also admits that Fastow received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

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83(d). Mark-Jusbasche admits that Richard A. Causey was Enron's Chief Accounting Officer. Mark-Jusbasche also admits that Causey received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(e). Plaintiffs having deleted the averments of this subparagraph, no response is required.

83(f). Mark-Jusbasche admits that Mark A. Frevert was Chairman of Enron Wholesale Services and of Enron Europe at various times during his employment at Enron. Mark-Jusbasche also admits that Frevert received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Frevert's salary and bonus payments for the years 1997-2000 are disclosed in Enron's annual Proxy Statements for the years 2000-2001. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(g). Mark-Jusbasche admits that Stanley C. Horton was Chairman of Enron Transportation Services. Mark-Jusbasche also admits that Horton received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Horton's salary and bonus payments for the years 1995-2000 are disclosed in Enron's annual Proxy Statements for the years 1998 and 2000-



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2001. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(h). Mark-Jusbasche admits that Kenneth D. Rice was Chairman of EBS. Mark-Jusbasche also admits that Rice received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Rice's salary and bonus payments for the years 1996-2000 are disclosed in Enron's annual Proxy Statements for the years 1999 and 2001. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(i). Mark-Jusbasche admits that Richard B. Buy was Executive Vice President, Chief Risk Officer, Senior Vice President, and Management Director of ECT at various times during his employment at Enron. Mark-Jusbasche also admits that Buy received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(j). Mark-Jusbasche admits that Lou L. Pai was Chairman and Chief Executive Officer of Enron Accelerator, and a director of EES at various times during his relationship with Enron. Mark-Jusbasche also admits that Pai received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against

certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(k). Mark-Jusbasche admits that Joseph M. Hirko was Chief Executive Officer of EBS. Mark-Jusbasche also admits that Hirko received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, including averments of the incorporated indictment attached as Ex. B to the Exhibit Appendix, and therefore they are denied.

83(l). Mark-Jusbasche admits that Ken L. Harrison was Chief Executive Officer of Portland General Electric and a director of Enron at various times during his relationship with Enron. Mark-Jusbasche also admits that Harrison received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Harrison's salary and bonus payments for the year 1997 are disclosed in Enron's annual Proxy Statement for the year 1998. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(m). Mark-Jusbasche admits that Steven J. Kean was Vice President and Chief of Staff at various times during his relationship with Enron. Mark-Jusbasche also admits that Kean received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is

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without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(n). Mark-Jusbasche admits that at various times she was Chairman and CEO of Enron International, Vice Chairman, and/or Chairman and CEO of Azurix. Mark-Jusbasche also admits that she received salary and bonus payments during her tenure at Enron, and that her bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Mark-Jusbasche's salary and bonus payments for the years 1996-1998 are disclosed in Enron's annual Proxy Statement for the year 1999. The Court has dismissed 1934 Act claims against Mark-Jusbasche relating to any impropriety as to her stock sales (*see* Dismissal Order); hence no response is required to the averments of this paragraph regarding claims as to her stock sales, and to the extent any response is required, those averments are denied. Mark-Jusbasche denies the remaining averments of this paragraph as to her.

83(o). Plaintiffs having deleted the averments of this subparagraph, no response is required.

83(p). Mark-Jusbasche admits that Jeffrey McMahon was Executive Vice President, Finance, Treasurer, and Senior Vice President, Finance at various times during his relationship with Enron. Mark-Jusbasche also admits that McMahon received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

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83(q.1.) Mark-Jusbasche admits that Cindy K. Olson was Executive Vice President, Human Resources at Enron. Mark-Jusbasche also admits that Olson received salary and bonus payments during her tenure at Enron, and that her bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

(q.2.) To the extent the averments of this subparagraph refer to other defendants, Mark-Jusbasche is without sufficient knowledge or information to form a belief as to the truth of the averments, and therefore denies them. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this subparagraph, and therefore they are denied.

(q.3.) To the extent the averments of this subparagraph refer to other defendants, Mark-Jusbasche is without sufficient knowledge or information to form a belief as to the truth of the averments, and therefore denies them. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this subparagraph, and therefore they are denied.

(q.4.) Mark-Jusbasche admits that Cindy Olson served in various positions during her relationship with Enron but is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this subparagraph as to specific positions or timeframes. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

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(q.5.) Mark-Jusbasche admits on information and belief that Olson testified in a hearing on Capitol Hill. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(r). Mark-Jusbasche admits that Joseph W. Sutton was Vice Chairman of Enron, but denies that he was Vice Chairman until early 2001; on information and belief, his resignation was final in approximately November 2000. Mark-Jusbasche also admits that Sutton received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. The amounts of Sutton's salary and bonus payments for the years 1996-1999 are disclosed in Enron's annual Proxy Statement for the years 1999-2000. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(s). Mark-Jusbasche admits that Mark E. Koenig was Executive Vice President, Investor Relations at Enron. Mark-Jusbasche also admits that Koenig received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(t). Mark-Jusbasche admits that Kevin Hannon was Operating Officer of EBS. Mark-Jusbasche also admits that Hannon received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against

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certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(u). Mark-Jusbasche admits that Lawrence Greg Whalley was President and Chief Operating Officer at various points during his tenure with Enron. Mark-Jusbasche admits that Whalley received salary and bonus payments during his tenure at Enron, and that his bonus payments were based in part upon the performance of Enron as measured against certain peer groups. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(v). Mark-Jusbasche admits that Robert A. Belfer was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(w). Mark-Jusbasche admits that Norman P. Blake, Jr. was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(x). Mark-Jusbasche admits that Ronnie C. Chan was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(y). Mark-Jusbasche admits that John H. Duncan was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

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83(z). Mark-Jusbasche admits that Wendy L. Gramm was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(aa). Mark-Jusbasche admits that Robert K. Jaedicke was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(bb). Mark-Jusbasche admits that Charles A. LeMaistre was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(cc). Mark-Jusbasche admits that Joe H. Foy was a director of Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(dd). Mark-Jusbasche admits that Defendants Mendelsohn, Meyer, Wakeham, Walker, Willison, Winokur, Urquhart and Ferraz served at certain times as directors of Enron, and that Lead Plaintiff has named them as defendants to claims alleged under § 11. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(ee). Mark-Jusbasche admits that Frank Savage was a director of Enron, and that he also served on the Finance Committee. Mark-Jusbasche further admits, in reliance on Mr. Savage's admission in the Outside Director Defendants' Answer to the Consolidated Complaint at ¶ 83(ee), that Savage was formerly the Chairman of Alliance Capital Management International. Mark-

Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(ff). Mark-Jusbasche admits that she attended Board meetings in her capacity as a director of Enron, and at those meetings she received information from Enron's management and its advisers concerning the company's business activities. Because of dismissal of all 1934 Act claims against her pursuant to the Dismissal Order, no response is required to averments of this paragraph to the extent they purport to aver improper conduct by Mark-Jusbasche; to the extent any response is required following entry of the Dismissal Order, these averments are denied. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(gg). Mark-Jusbasche admits that she, Lay and Skilling served as officers and/or directors of Azurix, and that interests in or securities of Azurix were owned by Enron. To the extent any response to the averments of this paragraph is required following entry of the Dismissal Order, Mark-Jusbasche denies the remaining averments of this paragraph insofar as they relate to her. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(hh). Mark-Jusbasche admits that Lay, Pai, Derrick and Causey were officers and/or directors of New Power, and that interests in or securities of New Power were owned in whole or in part by Enron. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.



83(ii). Mark-Jusbasche denies the first sentence if and to the extent the term “insiders” purports to refer to her. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

83(jj). Mark-Jusbasche admits that J. Clifford Baxter at certain times served as Vice Chairman and/or Chief Strategy Officer of Enron, and is now deceased. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

84. In response to the averments of the first sentence, Mark-Jusbasche admits that officers, directors and/or controlling persons of publicly held companies owe certain legal duties, but to the extent this sentence purports to assert legal conclusions, no response is required; moreover, to the extent the first sentence purports to aver any improper conduct by Mark-Jusbasche, and/or to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche denies such averments. In response to the second sentence, to the extent the averments purport to refer to Mark-Jusbasche, no response is required following entry of the Dismissal Order; to the extent any response is required, the averments are denied. To the extent the averments in the second sentence refer to other defendants, Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the averments, and therefore denies them. In response to the third sentence and chart, to the extent the averments purport to refer to stock sales by Mark-Jusbasche, no response is required following entry of the Dismissal Order; to the extent any response is required, the averments are denied. To the extent the averments in the third sentence and chart refer

to other defendants, Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the averments, and therefore denies them.

85. Mark-Jusbasche admits that the Enron Board functioned, in part, through various committees, and that these committees included an Audit Committee, a Finance Committee, and an Executive Committee. Mark-Jusbasche admits that Enron's Board and the indicated committees met frequently and received reports concerning Enron's businesses. These committees engaged in various specific activities, although Mark-Jusbasche denies the generalized characterizations by Plaintiffs of the functions of these committees. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

86. Mark-Jusbasche admits that some or all of the individuals listed in the paragraph served as members of Enron's Board of Directors during the periods indicated. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the averments regarding the specific dates of membership or chair tenure of directors on the specific committees listed, and therefore they are denied.

87-100. The averments in these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contain specific averments about Mark-Jusbasche or her conduct and to the extent such averments require any response following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the

paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, these averments are denied.

101. (a) Mark-Jusbasche admits that CitiGroup is a defendant in this action and is a large, integrated financial services institution. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

(b) Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the averments of this subparagraph, and therefore they are denied.

(c) Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the averments of this subparagraph, and therefore they are denied.

(d) Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the averments of this subparagraph, and therefore they are denied.

102(a)-(c). The averments of this paragraph are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent this paragraph contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to this paragraph the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

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103(a)-(d). Mark-Jusbasche admits that Canadian Imperial Bank of Commerce is a defendant in this action and is an integrated financial services institution. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

104(a). Mark-Jusbasche admits that Bank of America Corp. is a defendant in this action and is an integrated financial services institution. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this subparagraph, and therefore they are denied.

(b). Mark-Jusbasche admits that Bank of America Securities LLC is a defendant in this action and, on information and belief, a U.S. investment bank and brokerage firm. On information and belief, Mark-Jusbasche admits that Bank of America Securities LLC is shown as an underwriter on the publicly filed Form 424B2 for the Enron 5/19/99 7.375% Notes due 5/15/19; as an underwriter on the publicly filed Form 424B1 for the Enron 8/10/99 7% Exchangeable Notes due 7/31/02; and as an agent on the publicly filed Form 424B3 for the Enron 5/18/00 Medium Term Notes. Mark-Jusbasche admits that Bank of America Securities LLC is shown as having sold in a private placement the Enron Zero Coupon Convertible Senior Notes due 2021, in the publicly filed prospectus dated July 18, 2001, and as a “selling security holder” in the prospectus. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this subparagraph, and therefore they are denied.

105-107. The averments of these paragraphs are not incorporated in Plaintiffs’ claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these

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averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraph contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

108(a)-(b). Mark-Jusbasche admits that Lehman Brothers Holdings, Inc. is a defendant in this action and is an integrated financial services institution. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

109-120. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

121. In this multi-part paragraph, Plaintiffs allege that Enron's financial statements and public statements from 7/14/98 to 10/14/98 were misleading. This paragraph, including specifically subparagraphs (f) and (h), contains averments with respect to claims against Mark-Jusbasche which

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the Court has dismissed (*see* Dismissal Order), and as to which no response is required; to the extent any response is required following entry of the Dismissal Order, these averments are denied. As to the remaining averments of paragraph 121, Mark-Jusbasche did not serve on the Board during the specified time frame (7/14/98 to 10/14/98) and consequently denies any averments as to her. By way of further response, prior to and during her tenure on the Board, Mark-Jusbasche was not aware that any of Enron's public or financial statements were materially incomplete or misleading, and Mark-Jusbasche denies that in the exercise of reasonable diligence she could have been aware of that alleged fact. In her service on the Board, Mark-Jusbasche was entitled to and did rely upon representations of management and Enron's outside experts, including Arthur Andersen, that: (a) the transactions presented to the Board were in Enron's best interests, and (b) Enron's public financial disclosures were complete, lawful and not misleading. Mark-Jusbasche did not approve any transaction that she believed was unfair to Enron or not in its best interest at the time the transaction was approved. Thus, the averments in paragraph 121 are denied as they pertain to Mark-Jusbasche. To the extent they pertain to the alleged actions of other Defendants, Mark-Jusbasche is without information sufficient to form a belief as to the truth of those averments, and therefore they are denied.

122-123. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraph contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates

in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

124. The averments of this paragraph relate to a timeframe (11/24/98) prior to Mark-Jusbasche's service on the Board. In reliance on the admission of the Outside Directors contained in the Outside Director Defendants' Answer to ¶ 124 of the Consolidated Complaint, and on information and belief, Mark-Jusbasche admits that Enron filed a Form 424(b)(2) on or about November 25, 1998 concerning the sale of \$250 million of 6.95% Notes due July 15, 2028, with Credit Suisse First Boston Corp. shown as underwriter, and that the net proceeds were to be used for general corporate purposes and to retire short-term debt. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

125. The averments of this paragraph are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent this paragraph contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to this paragraph the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

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126. The averments of this paragraph relate to a timeframe (1/12/99) prior to Mark-Jusbasche's service on the Board. In reliance on the admission of the Outside Directors contained in the Outside Director Defendants' Answer to ¶ 126 of the Consolidated Complaint, and on information and belief, Mark-Jusbasche admits that Enron filed a Form S-3 on or about January 12, 1999 concerning \$1 billion in securities, signed by Lay, Causey, Fastow, Belfer, Blake, Chan, John Duncan, Foy, Gramm, Harrison, Jaedicke, LeMaistre, Meyer, Skilling, Urquhart, Wakeham, Walker and Winokur or their representatives. To the extent, if any, the term "insiders" in the first sentence of this paragraph purports to refer to Mark-Jusbasche, Mark-Jusbasche denies the averments of the first sentence of this paragraph. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

127-133. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

134. The averments of this paragraph relate to a timeframe (2/3/99) prior to Mark-Jusbasche's service on the Board. In reliance on the admission of the Outside Directors contained in the Outside Director Defendants' Answer to ¶ 134 of the Consolidated Complaint, and on



information and belief, Mark-Jusbasche admits that Enron filed a Form S-3/A on or about February 3, 1999, signed by Lay, Causey, Fastow, Belfer, Blake, Chan, John Duncan, Foy, Gramm, Harrison, Jaedicke, LeMaistre, Meyer, Skilling, Urquhart, Wakeham, Walker, and Winokur, or their representatives, and that this filing contained a section reporting certain of Enron's financial information for 1998. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

135. The averments of this paragraph relate to a timeframe (2/11/99) prior to Mark-Jusbasche's service on the Board. In reliance on the admission of the Outside Directors contained in the Outside Director Defendants' Answer to ¶ 135 of the Consolidated Complaint, and on information and belief, Mark-Jusbasche admits that on or about February 12, 1999 Enron filed a Form 424(b)(2) which named underwriters including Merrill Lynch, Credit Suisse First Boston, Lehman Brothers, J. P. Morgan and others, and that the proceeds were to be used to fund capital investments and repay short term debt. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

136-140. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to

which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

141. The averments of this paragraph relate to a timeframe (3/99) prior to Mark-Jusbasche's service on the Board. Mark Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the averments of the second sentence. In reliance on the admission of the Outside Directors contained in the Outside Director Defendants' Answer to ¶ 141 of the Consolidated Complaint, and on information and belief, Mark-Jusbasche admits the remaining averments of this paragraph, except that the Form 10-K was signed by Lay, Causey, Fastow, Belfer, Blake, Chan, John Duncan, Foy, Gramm, Harrison, Jaedicke, LeMaistre, Meyer, Skilling, Urquhart, Wakeham, Walker, and Winokur, or their representative(s).

142-150. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

151. The averments of this paragraph relate to a timeframe (5/19/99) prior to Mark-Jusbasche's service on the Board. In reliance on the admission of the Outside Directors contained in the Outside Director Defendants' Answer to ¶ 151 of the Consolidated Complaint, and on

information and belief, Mark-Jusbasche admits that a Form 424(b)(2) was filed in May 1999 concerning the sale of \$500 million of 7.375% Notes due May 15, 2019, with Lehman Brothers, Bank of America, and CIBC World Markets shown as underwriters, and the net proceeds were to be used to repay short-term debt and for general corporate purposes. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

152-163. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

164. Mark-Jusbasche denies that she, Meyer, Urquhart or Winokur signed the Form S-3 filed by Enron on or about July 23, 1999, but she admits it was signed by Lay, Causey, Fastow, Belfer, Blake, Chan, John Duncan, Foy, Gramm, Harrison, Jaedicke, LeMaistre, Mendelsohn, Skilling, and Wakeham or their representative(s). She admits that the Form S-3 included certain 2Q99 financial information and incorporated Enron's 10K for 1998. The second sentence of this paragraph purports to incorporate certain paragraphs of the Complaint (¶¶ 418-611) containing averments or respecting claims that, as to Mark-Jusbasche, have been dismissed by the Court. *See*

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Dismissal Order. No response to those averments is required; to the extent a response is required, those averments are answered as indicated at those paragraphs. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph, and therefore they are denied.

165. Mark-Jusbasche admits that on or about August 10, 1999 Enron filed a Form 424(B)(1) concerning 7% Exchangeable Notes to be exchanged for shares of common stock of Enron Oil & Gas (EOG) due July 31, 2002, listing Bank of America and Salomon Smith Barney Inc. as underwriters and indicating the net proceeds were to be used to retire existing debt and for general corporate purposes. Mark-Jusbasche denies that she was aware that any of Enron's financial statements were materially incomplete or misleading. Mark-Jusbasche also denies that in the exercise of reasonable diligence she could have been aware of that alleged fact. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph, and therefore they are denied.

166-235. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to

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which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

236. Mark-Jusbasche admits that Enron filed Forms 424(B)(3) in May 2000 concerning 8.375% Medium term Notes, Series A due May 23, 2005, with Bank of America listed as agent. Mark-Jusbasche further admits that on or about June 1, 2000 Enron filed a Form 424(B)(2) concerning \$325 million in 7.875% Notes due June 15, 2003, listing Lehman Brothers as one of the participating underwriters and showing the intended use of proceeds as for general corporate purposes and to pay short-term debt. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

237-335. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

336. The averments of this paragraph relate to a time (7/18/01) nearly a year after Mark-Jusbasche's departure from the Board, and to securities as to which no § 11 claim is pled or can be pled as to Mark-Jusbasche. To the extent Mark-Jusbasche is able to determine from publicly

available documents, the averments of this paragraph are inaccurate, and the averments of this paragraph are denied.

337-383. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

384. Based on media reports, Mark-Jusbasche admits that in fall 2001 Enron restated its financial results, and that according to media reports, approximately \$1.2 billion of shareholder equity was eliminated. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph and the accuracy of the chart, and therefore they are denied.

385-418. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to

which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

419. Mark-Jusbasche admits that Enron has restated and corrected its financial results for certain periods. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

420. The averments of this paragraph are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent this paragraph contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to this paragraph the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

421. Mark-Jusbasche admits that Enron has restated its financial results for certain periods. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or the accuracy of the chart in this paragraph, and therefore they are denied.

422-446. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates

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in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

447. Mark-Jusbasche's service on the Board had ended over a year before Enron filed its restatement. Based on media reports, Mark-Jusbasche admits that a portion of Enron's financial restatement involved a restatement of the accounting treatment involving Chewco and JEDI. Mark-Jusbasche was not aware, and in the exercise of reasonable diligence could not have been aware, during her tenure on the Board, of the existence of any accounting errors or accounting treatment which resulted in the restatement. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments or the accuracy of the chart in this paragraph, and therefore they are denied.

448. Mark-Jusbasche's service on the Board ended over a year before Enron filed its restatement. Based on media reports, Mark-Jusbasche admits that a portion of Enron's financial restatement involved a restatement of the accounting treatment of certain transactions involving LJM and LJM2. Mark-Jusbasche admits that Fastow had a managerial role in both LJM and LJM2, and that Enron entered into transactions with the LJM entities. Mark-Jusbasche was not aware of and in the exercise of reasonable diligence could not have been aware, during her tenure on the Board, of the existence of any accounting errors or accounting treatment which resulted in the restatement. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph, and therefore they are denied.



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449. The averments of this paragraph are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent this paragraph contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to this paragraph the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

450. To the extent, if any, the term "defendants" in the second sentence purports to include Mark-Jusbasche, the averments of that sentence are denied as to her. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph, and therefore they are denied.

451-517. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

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518. Mark-Jusbasche denies the averments of this paragraph to the extent they relate to her. Mark-Jusbasche was entitled to and did rely upon representations by management, Enron's outside experts, and the accounting expertise of Arthur Andersen and of Enron's accounting staff in performing her duties as a director of Enron. In reliance upon management, Enron's accounting staff and Enron's outside experts, including Arthur Andersen, Mark-Jusbasche believed that Enron's financial reports were lawful, complete and appropriate at the time those reports were issued. Mark-Jusbasche did not know and in the exercise of reasonable diligence could not have known of any accounting errors reported in the restatement. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to whether Plaintiffs' characterizations of the GAAP rules cited in these paragraphs are complete, not misleading and stated in context. Accordingly, those averments are denied.

519-609. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

610. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to whether Plaintiffs' characterizations of the GAAP rules cited in these paragraphs are complete,

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not misleading and stated in context. Accordingly, those averments are denied. By way of further response, Mark-Jusbasche was entitled to and did rely upon representations by management, Enron's outside experts, and the accounting expertise of Arthur Andersen and Enron's accounting staff in performing her duties as a director of Enron. In reliance upon management, Enron's accounting staff, and Enron's experts, including Arthur Andersen, Mark-Jusbasche believed that Enron's financial reports were lawful, complete and appropriate at the time those reports were issued. She did not know and in the exercise of reasonable diligence could not have known of any accounting errors later reported in the restatement.

611. The averments of this paragraph are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent this paragraph contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to this paragraph the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

612. The registration statements, prospectuses and offering documents for the alleged offerings which are indicated but incompletely identified in the chart contained in this paragraph speak for themselves in terms of specifically incorporated documents, and in terms of stated date of offering and description of offering. To the extent Plaintiffs have mischaracterized these documents, these allegations are denied. No claim is asserted against Mark-Jusbasche with respect to any of the

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alleged offerings listed other than the “8/10/99” “Notes” (assuming this reference is intended to refer to the 7% Exchangeable Notes listed in ¶ 1006 of the Complaint), and hence no response is required by Mark-Jusbasche with respect to other alleged offerings. To the extent any response is required, Mark-Jusbasche denies any liability with respect to these offerings and denies the averments insofar as they pertain or relate to her. As to the “8/10/99” “Notes,” Mark-Jusbasche admits that the S/3 Registration Statement dated 7/23/99 incorporates the 1998 10-K. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

613. Mark-Jusbasche denies the averments of this paragraph insofar as they purport to refer to her conduct. Mark-Jusbasche was entitled to and did rely upon representations by management, Enron’s outside experts, and the accounting expertise of Arthur Andersen and of Enron’s accounting staff in performing her duties as a director of Enron. In reliance upon management, Enron’s accounting staff, and Enron outside experts, including Arthur Andersen, as well as on recommendations of relevant Board committees, Mark-Jusbasche believed that Enron’s financial reports were lawful, complete and appropriate at the time those reports were issued. She did not know and in the exercise of reasonable diligence could not have known of any accounting errors reported in Enron’s restatement until they were reported. The nature of, and the reasons for, Enron’s restatement of its financial reports are set out in its Form 8-K. Mark-Jusbasche is without information sufficient to determine whether Plaintiffs’ characterization of the GAAP rules cited in this paragraph is complete, not misleading and stated in context. Accordingly, those averments are denied. In addition, this paragraph purports to incorporate certain paragraphs of the Complaint (¶¶

418-611) containing averments that have been dismissed as to Mark-Jusbasche by the Court. No response to those averments is required; to the extent a response is required, those averments are denied to the extent they purport to refer to Mark-Jusbasche or her conduct. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments.

614. Mark-Jusbasche was not on the Board at the time of the filing referenced in this paragraph (December 13, 1997). Mark-Jusbasche admits on information and belief that Enron filed a Form S-3 on December 19, 1997 which incorporated Enron's Form 10-K for 1996. Mark-Jusbasche admits that the Form 10-K for 1997 contained a number of disclosures concerning its project at Dabhol but denies Plaintiffs' characterization of those disclosures. To the extent this paragraph alleges any wrongdoing by Mark-Jusbasche, this Court has dismissed such claims (*see* Dismissal Order) and no response is required; to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche denies the averments of the paragraph to the extent, if any, they allege wrongdoing by her. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the remaining averments in this paragraph, and therefore they are denied.

615. Mark-Jusbasche admits that Enron's registration statements often incorporated by reference documents filed pursuant to Section 13(a) of the 1934 Act, including Enron's Form 10-Ks. To the extent this paragraph references specific SEC filings, such referenced documents (and any incorporated documents) speak for themselves. To the extent the averments of this paragraph relate to claims already dismissed against Mark-Jusbasche (*see* Dismissal Order), no response is required; to the extent any response is required, Mark-Jusbasche denies the averments of this paragraph insofar

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as it purports to refer to her or allege wrongdoing or negligence by her. In addition, this paragraph purports to incorporate certain paragraphs of the Complaint (§§ 418-611) containing averments that have been dismissed as to Mark-Jusbasche by the Court. No response to those averments is required; to the extent a response is required, those averments are denied. In performing her duties as a director of Enron, Mark-Jusbasche was entitled to and did rely upon representations by management, Enron's outside experts, and the accounting expertise of Arthur Andersen and of Enron's accounting staff. In reliance upon management, Enron's accounting staff, and Enron's experts, including Arthur Andersen, Mark-Jusbasche believed that Enron's financial reports were lawful, complete and appropriate at the time those reports were issued. She did not know and in the exercise of reasonable diligence could not have known of any accounting errors reported in Enron's restatement until they were reported. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to whether Plaintiffs' characterization of the GAAP rules referenced in this paragraph is complete, not misleading and stated in context. Accordingly, those averments are denied. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

616. In this paragraph, Plaintiffs aver that certain of Enron's offering documents were misleading for a variety of reasons. Mark-Jusbasche denies the averments of the second sentence to the extent "defendants" purports to refer to her, and denies the averments of this paragraph insofar as they pertain to her. In addition, during her tenure on the Board, Mark-Jusbasche was not aware that any of Enron's public or financial statements or offering documents were materially incomplete or misleading. Mark-Jusbasche also denies that in the exercise of reasonable diligence she could

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have been aware of that alleged fact. In her service on the Board, Mark-Jusbasche was entitled to and did rely upon representations of management and Enron's outside experts, including Arthur Andersen, that: (a) the transactions presented to the Board were in Enron's best interests and (b) Enron's public financial disclosures were complete, lawful and not misleading. Mark-Jusbasche did not approve any transaction that she believed was unfair to Enron or not in its best interest at the time the transaction was approved. To the extent that the averments of this paragraph pertain to the alleged actions of other Defendants, Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of those averments.

617. Mark-Jusbasche would expect that both the lawyers who worked on Enron's transactions and the banks that engaged in transactions with Enron would have had pertinent knowledge concerning those transactions. Mark-Jusbasche, however, was not personally involved in discussions with banks or outside lawyers concerning the transactions reflected in the "Offering Documents" as defined in ¶ 612 of the Complaint and lacks knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph concerning those parties. Mark-Jusbasche denies the averments of this paragraph insofar as they pertain to her. In addition, during her tenure on the Board, Mark-Jusbasche was not aware that any of Enron's public or financial statements or offering documents were materially incomplete or misleading, or that the Raptor transactions were allegedly "bogus hedges" at the time they were approved or were otherwise improper. Mark-Jusbasche also denies that in the exercise of reasonable diligence she could have been aware of such alleged facts. In her service on the Board, Mark-Jusbasche was entitled to and did rely upon representations of management and Enron's outside experts, including Arthur

( ( Andersen, that: (a) the transactions presented to the Board were in Enron's best interests and (b) Enron's public financial disclosures were complete, lawful and not misleading. Mark-Jusbasche did not approve any transaction that she believed was unfair to Enron or not in its best interest at the time the transaction was approved. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the remaining averments of this paragraph, including any averments concerning other defendants.

618-620. These paragraphs reference "Offering Documents" for "00" and "01" and appear to reference Registration Statements whose effective dates were 2/05/99 (before Mark-Jusbasche was on the Board) and 6/1/01 (almost a year after she left the Board). To the extent these paragraphs contain averments as to claims dismissed against Mark-Jusbasche (*see* Dismissal Order), no response is required; to the extent any response is required to averments which pertain to the conduct of Mark-Jusbasche, Mark-Jusbasche denies such averments and by way of further response, answers in accordance with paragraph 617 above. As to the quoted disclosure alleged as incorporated from the "zero coupon convertible notes" Registration Statement filed 6/01/01, Mark-Jusbasche denies that the Zero Coupon notes were issued pursuant to a registration statement, as the 6/01/01 Registration Statement states that they were issued in a private placement. The quoted language appears to be one paragraph from the "capitalization" section of the 2000 10-K. Plaintiffs have not specified the other "offering documents" which allegedly contain the same disclosure, and Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of that averment. Insofar as the averments of these paragraphs refer to this or any other registration statement or "Offering Document," Mark-Jusbasche denies that she knew, or in the exercise of reasonable diligence could



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have known, that any such registration statement or “Offering Document” was materially incomplete or misleading. In her service on the Board, Mark-Jusbasche was entitled to and did rely upon representations of management and Enron’s outside experts, including Arthur Andersen, that (a) the transactions presented to the Board were in Enron’s best interests and (b) Enron’s public financial disclosures were complete, lawful and not misleading. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments insofar as they pertain to the conduct of other defendants, and therefore denies them.

621. To the extent the averments of this paragraph purport to relate to her, Mark-Jusbasche denies them. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph as they relate to other parties or defendants, and therefore denies them.

622. To the extent the averments of this paragraph purport to relate to her, Mark-Jusbasche denies them. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph as they relate to other parties or defendants, and therefore denies them.

623. To the extent the averments of this paragraph purport to relate to her, Mark-Jusbasche denies them. Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the averments in this paragraph as they relate to other parties or defendants, and therefore denies them.

624. In this paragraph, Plaintiffs again allege that Enron’s offering documents were misleading for a variety of reasons. Prior to and during her tenure on the Board, Mark-Jusbasche

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was not aware that any of Enron's public or financial statements were materially incomplete or misleading. Mark-Jusbasche also denies that in the exercise of reasonable diligence she could have been aware of that alleged fact. In her service on the Board, Mark-Jusbasche was entitled to and did rely upon representations of management and Enron's outside experts, including Arthur Andersen, that (a) the transactions presented to the Board were in Enron's best interests and (b) Enron's public financial disclosures were complete, lawful and not misleading. Mark-Jusbasche did not approve any transaction that she believed was unfair to Enron or not in its best interest at the time the transaction was approved. Thus, the averments of this paragraph are denied as they pertain to Mark-Jusbasche. To the extent they pertain to the alleged actions of other Defendants, Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of those averments, and therefore denies them.

625. In this paragraph, Plaintiffs quote part of a section from Enron's 2000 Form 10-K. Although the quoted language appears in a portion of Enron's Form 10-K, Plaintiffs have omitted important risk disclosures concerning Enron's risk management system. With respect to the remaining averments of this paragraph, Plaintiffs have failed to specify specific offerings or documents, and Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of those remaining averments, and therefore denies them.

626-627. To the extent they pertain to her, Mark-Jusbasche denies the averments of these paragraphs. To the contrary of these averments, during her tenure on the Board Mark-Jusbasche approved procedures and policies of a sophisticated risk management system that was intended to monitor Enron's value-at-risk, and Mark-Jusbasche was assured by management and independent

auditors that those procedures were being followed. A description of Enron's value-at-risk system was included in Enron's Form 10-K. Mark-Jusbasche was entitled to and did rely on representations from Enron management and Enron's experts, including Arthur Andersen, that this system was functional, complete and adequate to assess and quantify the risks that Enron was assuming in its trading portfolio. Mark-Jusbasche did not know, and in the exercise of reasonable diligence could not have known, that Enron's value-at-risk calculation did not, as Plaintiffs aver, incorporate an assessment of the risks being hedged in the Raptor transactions. Mark-Jusbasche lacks sufficient knowledge to form a belief as to the truth of the remaining averments of these paragraphs, and therefore denies them.

628. To the extent, if any, that they pertain to her, Mark-Jusbasche denies the averments of this paragraph. Mark-Jusbasche further denies that she believed or understood (or in reasonable diligence could have understood) at any time prior to or during her tenure on the Board that Enron's credit risk was materially misstated or that the Raptor or LJM transactions were allegedly bogus hedges, at the time they were approved by the Board, or at any time during her tenure on the Board. In addition, Mark-Jusbasche denies these averments for the reasons stated in her response to ¶ 624. Mark-Jusbasche lacks sufficient knowledge to form a belief as to the truth of the remaining averments of this paragraph, and therefore denies them.

629-630. To the extent these paragraphs contain averments relating to claims which the Court has dismissed as to Mark-Jusbasche (*see* Dismissal Order), no response is required; to the extent a response is required, Mark-Jusbasche denies the averments of these paragraphs to the extent they purport to refer or relate to her. Mark-Jusbasche denies the characterization of the "Offering

Documents” as to the 7/18/01 Notes, which were issued via private placement. Plaintiffs’ quotations of certain SEC filings have omitted important risk disclosures concerning Enron’s risk management system, including risk disclosures that appeared in Enron’s previously issued Form 10-K for 2000. Plaintiffs’ averment that this partial quotation was somehow misleading is therefore denied. In addition, Mark-Jusbasche denies this averment for the reasons stated in ¶ 624. To the extent these paragraphs contain averments pertaining to other defendants, Mark-Jusbasche is without knowledge or information sufficient to form a belief as to their truth, and therefore denies them.

631. Mark-Jusbasche admits the quoted excerpts are contained in the 1999 10-K. To the extent this paragraph contains averments relating to claims which the Court has dismissed as to Mark-Jusbasche (*see* Dismissal Order), no response is required; to the extent a response is required, Mark-Jusbasche denies the averments of this paragraph to the extent they purport to refer or relate to her, or suggest any misconduct or negligence by her. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments, and therefore denies them.

632-635. Mark-Jusbasche denies these averments insofar as they pertain to what she knew and what she was told about Enron Broadband Services and the Enron Intelligent Network. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the averments of these paragraphs as they pertain to the actions of other defendants, and therefore denies them.

636. This paragraph contains averments concerning Enron’s 2000 10-K, filed many months after Mark-Jusbasche’s departure from the Board. Mark-Jusbasche admits that in this paragraph, Plaintiffs quote from Enron’s 2000 Form 10-K, but denies that the quoted language is a

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full recitation in proper context as Plaintiffs have omitted important risk disclosures in the quoted sections concerning the losses to date and business risk associated with Enron's broadband businesses, and also denies Plaintiffs' characterization of the language. To the extent the averments of this paragraph purport to relate to or refer to her or suggest negligence or misconduct by her, Mark-Jusbasche denies them, and further denies them for the additional reasons contained in her response to ¶ 624. To the extent this paragraph contain averments pertaining to other defendants, Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of these averments, and therefore denies them.

637-639. The averments of these paragraph relates to data and documentation concerning a time frame months after Mark-Jusbasche had left the Board. Mark-Jusbasche denies these averments insofar as they relate to what she knew and what she was told about Enron Broadband Services and the Enron Intelligent Network during her tenure on the Board. Mark-Jusbasche lacks sufficient knowledge to form a belief as to the truth of the averments of this paragraph insofar as they pertain to the actions of other defendants, and therefore denies them.

640-641 (including amended 641.1-641.44). The averments of these paragraphs in part concern Enron's 1<sup>st</sup> Q 2001 Form 10-Q and 2000 Form 10-K concerning Enron Energy Services. Both documents were filed months after Mark-Jusbasche had left the Board. Mark-Jusbasche admits that Enron's 1<sup>st</sup> Q 2001 10Q reported that EES had 1<sup>st</sup> Q 2001 revenues of \$693 million and income of \$40 million. Mark-Jusbasche admits that the 2000 10-K reported income for EES of \$165 million and attributed 2000 revenue and gross margin increases primarily to execution of commitments on its customer base, long-term energy contracts originated in 2000 and the increase in value of its

contract portfolio. Mark-Jusbasche admits the averments of the second sentence of ¶ 641. The averments of amended subparagraphs 641.1-641.44 concern nine private offerings by Enron, five of which (9/28/00 offering by Osprey Trust/Osprey I, Inc.; 5/17/01 offering by Enron Euro Credit Linked Notes Trust; 5/17/01 offering by Enron Credit Linked Notes Trust II; 5/17/01 Enron Sterling Credit Linked Notes Trust; and 7/12/01 Marlin Water Trust II/Marlin Water Capital Corp. II) were offered, according to the Amended Complaint, after Mark-Jusbasche had left the Board. The averments of these subparagraphs in part concern Enron's Form 10-K for the year ended 12/31/98 and Form 10-Q for the quarter ended 3/31/99; both documents were filed before Mark-Jusbasche became a director. The averments of these subparagraphs in part concern Enron's Form 10-K for the year ended 12/31/00 and Form 10-Q for the quarter ended 3/31/01; both documents were filed months after Mark-Jusbasche left the Board. To the extent these paragraphs contain averments relating to claims which the Court has dismissed as to Mark-Jusbasche (*see* Dismissal Order), no response is required; to the extent a response is required, Mark-Jusbasche denies the averments of this paragraph to the extent they purport to refer or relate to her or suggest any negligence or misconduct by her. Mark-Jusbasche further denies these averments as to her for the reasons set forth in her response to ¶ 624. To the extent that ¶ 641 purports to incorporate paragraphs of the Complaint that have been dismissed against Mark-Jusbasche (¶¶ 418-611), no response to those averments is required. To the extent a response is required, those averments are denied. To the extent these paragraphs contain averments pertaining to other defendants, Mark-Jusbasche is without knowledge or information sufficient to form a belief as to their truth, and therefore denies them.

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Finally, Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

642-985. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

986. Mark-Jusbasche admits that Lead Plaintiff purports to bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the averments concerning the scope of the class, because discovery is incomplete, and therefore denies them. Mark-Jusbasche reserves all challenges and objections to class definition pending completion of discovery. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

987-991. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs, and therefore denies them, because no discovery concerning the scope of the purported class(es) has yet occurred.

992-1004. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied.

1005. Mark-Jusbasche admits that Plaintiffs purport to incorporate in their claim for alleged violations of §§ 11 and 15 the paragraphs listed in ¶ 1005, and Mark-Jusbasche incorporates her corresponding answers and responses. Mark-Jusbasche also admits that Plaintiffs have disclaimed any allegations of fraud and intentional or reckless misconduct against Mark-Jusbasche.

1006. Mark-Jusbasche admits that Lead Plaintiff purports to bring certain claims under §§ 11 and 15 of the Securities Act of 1933, but denies that this paragraph states § 15 claims against her, given dismissal by the Court of § 15 claims against her (*see* Dismissal Order). Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the capacity of Pulsifer to serve as sub-class representative for the sole § 11 claim against her, on the 7% Notes, and therefore denies this averment; Mark-Jusbasche does not waive but expressly reserves the right to move to dismiss any claim on the 7% Notes. The registration statements and offering documents referenced in the chart contained in this paragraph speak for themselves. In reliance on the Outside Director Defendants' denial contained in ¶ 1006 of their Answer to the Consolidated Complaint, and on



information and belief, Mark-Jusbasche denies that the Zero Coupon Convertible Notes allegedly purchased by Plaintiffs were sold pursuant to the registration statement as alleged in this paragraph; to the contrary, those notes were issued in a private placement as set forth in the 6/01/01 Form S-3. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph, and therefore they are denied.

1007. In this paragraph, Plaintiffs aver that Enron's financial statements, registration statements and prospectuses referenced in the chart in ¶ 1006 were false and misleading "as they omitted to state facts necessary to make the statements made not misleading and failed to adequately disclose material facts." During her tenure on the Board, Mark-Jusbasche was not aware that any of Enron's public or financial statements relating to any Enron securities offering were materially incomplete or misleading. Mark-Jusbasche also denies that in the exercise of reasonable diligence she could have been aware of that alleged fact. In her service on the Board, Mark-Jusbasche was entitled to and did rely upon representations of management and Enron's outside experts, including Arthur Andersen, that (a) the transactions presented to the Board were in Enron's best interests and (b) Enron's public financial disclosures were complete, lawful and not misleading. Thus, the averments of this paragraph are denied as they pertain to Mark-Jusbasche. Finally, to the extent the averments pertain to the alleged actions of other Defendants, Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of those averments, and therefore denies them.

1008. Mark-Jusbasche admits that Enron is the registrant of certain of the securities listed in paragraph 1006 and referred to in this paragraph. Mark-Jusbasche denies, however, that the Zero

Coupon Notes were offered by Enron pursuant to a registration statement, as the 6/01//01 S-3 recites that Enron “issued the notes in a private placement on February 7, 2001.”

1008.1. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to the truth of the averments concerning the Plaintiffs’ purchase of securities. Mark-Jusbasche admits Plaintiffs’ transcription of a portion (subsection (c)) of 17 CFR § 230.158 in n.21 is accurate, except that “effective date of the registration statement” should be in italics; Mark-Jusbasche denies that Plaintiffs have accurately quoted 17 CFR § 230.158 since the remaining subsections are omitted. To the extent the remaining averments (including averments of the first date of offering, and the effective date of registration) constitute legal conclusions, no response is required; to the extent any response is required, the remaining averments are denied.

1009. Paragraph 1009 avers a legal conclusion as to which no responsive pleading is required. To the extent ¶ 1009 avers liability on the part of Mark-Jusbasche for the contents of any offering document, those averments are denied. In her service on the Board, Mark-Jusbasche relied upon the representation of Enron management and experts, including Arthur Andersen, that offering documents (including registration statements and prospectuses) presented to the Board during her tenure were complete and not misleading. Furthermore, Mark-Jusbasche believed Enron’s offering documents to be complete and not misleading, and did not know and in the exercise of reasonable diligence could not have known of the untruths and omissions that Plaintiffs now contend are contained in those offering documents or the financial statements or other SEC filings incorporated in them. Mark-Jusbasche further denies that she prepared or drafted the referenced offering documents; rather, she was aware they were prepared by Enron’s management, counsel and outside

auditors, and to the extent she authorized them to be filed, she did so in reliance upon the representations of those parties, and without any knowledge that the documents were in any way deficient or misleading. Mark-Jusbasche denies the remaining averments of this paragraph insofar as they pertain to her. To the extent the remaining averments pertain to the conduct of other Defendants, Mark-Jusbasche lacks knowledge or information sufficient to form a belief as to the truth of the averments, and therefore denies them.

1010. Mark-Jusbasche denies the averments of this paragraph insofar as they pertain to her, but she lacks knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph as they pertain to other defendants, and therefore denies them.

1011. Mark-Jusbasche denies that she was a seller of any of Enron's securities, and further denies the remaining averments insofar as they pertain to her. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the averments of this paragraph as they pertain to other defendants, and therefore denies them.

1012. Mark-Jusbasche admits on information and belief that representatives of Arthur Andersen consented to the inclusion or incorporation of its reports on Enron's financial statements in the referenced Registration Statements, Prospectuses and other offering documents, but is without knowledge or information sufficient to form a belief as to the truth of the averment that consent was provided by the specific entity Andersen-U.S. Mark-Jusbasche denies, however, that she knew, or in the exercise of reasonable diligence could have known, that those financial statements contained material misrepresentations or omissions. Mark-Jusbasche is without knowledge or information sufficient to form a belief as to whether Arthur Andersen knew that fact.

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1013. Mark-Jusbasche admits that the firms listed as underwriters as detailed in ¶ 1006 acted either as underwriters or placement agents in connection with the securities set forth in ¶ 1006. Mark-Jusbasche also understood that, as underwriters and placement agents, the firms in question would undertake a reasonable and diligent investigation of the statements made in Enron's offering documents. Mark-Jusbasche denies she is liable for any claim as averred in this paragraph and denies the averments to the extent they pertain or refer to her. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of the remaining averments, and therefore denies them.

1014. Paragraph 1014 contains averments relating to § 15; the Court has dismissed such claims as to Mark-Jusbasche (*see* Dismissal Order), and hence no response is required; to the extent any response is required, Mark-Jusbasche denies that she violated or is liable under § 15. Mark-Jusbasche denies she violated, or is liable under, § 11. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the remaining averments and therefore they are denied.

1015-1016. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the alleged purchases, or knowledge of, Plaintiffs. Any remaining averments are denied, except that Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of averments as they refer or relate to other defendants, and therefore denies them.

1016.1-1016.24. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and state no claim against Mark-Jusbasche, but only against other Defendants, and similarly require no response. To the extent these

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paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of averments as they refer or relate to other defendants, and therefore denies them.

1016.25-1016.28. The averments of these paragraphs are not incorporated in Plaintiffs' claims under § 11 of the Securities Act of 1933 and therefore require no response. In all other respects, these averments have been dismissed against Mark-Jusbasche and state no claim against Mark-Jusbasche, but only against other Defendants, and similarly require no response. To the extent these paragraphs contains specific averments about Mark-Jusbasche or her conduct and to the extent any response is required following entry of the Dismissal Order, Mark-Jusbasche incorporates in response to these paragraphs the answers and responses to similar averments in the paragraphs to which she has provided specific responses. To the extent any further response is required to any specific averments about Mark-Jusbasche, those averments are denied. Mark-Jusbasche lacks sufficient knowledge or information to form a belief as to the truth of averments as they refer or relate to other defendants, and therefore denies them.

#### **GENERAL DENIAL**

Except as otherwise expressly recognized above, Mark-Jusbasche denies each and every averment contained in Paragraphs 1 through 1016.28, including, without limitation, the footnotes,

headings, subheadings, and Prayer for Relief contained in the Complaint. Mark-Jusbasche specifically denies any liability to Plaintiffs or any members of the class that Plaintiffs purport to represent, and she denies that Plaintiffs or any members of the class that Plaintiffs purport to represent have suffered any legally cognizable damages for which Mark-Jusbasche is responsible. Mark-Jusbasche expressly reserves the right to amend and/or supplement her Answer to the Amended Complaint.

### **RESERVATION OF RIGHT TO AMEND**

Consistent with the Federal Rules of Civil Procedure, Mark-Jusbasche reserves her rights to plead further and to allege additional defenses in response to amended pleadings filed by Plaintiffs, when discovery indicates such pleadings are supported, or as justice may require.

### **AFFIRMATIVE DEFENSES**

#### **First Defense: Failure to State A Claim for Relief**

The Complaint fails to state a claim upon which relief can be granted against Mark-Jusbasche and fails to comply with the requirements of the Private Securities Litigation Reform Act and rule 9(b) of the Federal Rules of Civil Procedure.

#### **Second Defense: Statute of Limitations**

Plaintiffs' claims are barred, in whole or in part, by applicable statutes of limitation.

#### **Third Defense: Failure to Plead Reliance**

Plaintiffs' claims under the Securities Act of 1933 (to the extent not already dismissed by the Order of March 25, 2003 (Inst. # 1300)) are barred because they have failed to plead reliance, despite the fact that they purchased their securities after the filing of an Enron Form 10-K.

**Fourth Defense: Laches and Adequate Remedy at Law**

Plaintiffs' claims for injunctive relief have been dismissed by the Court's Order. In the unlikely event they are revived or pled again, Plaintiffs are barred from obtaining injunctive relief by the doctrine of laches and because an adequate remedy exists at law for their alleged injury.

**Fifth Defense: Reasonable Diligence and Reliance Upon Management**

Mark-Jusbasche served diligently during her tenure on the Board, and was entitled to, and did, rely upon recommendations, statements and representations of Enron's management in connection with her decisions to authorize the transactions challenged in Plaintiffs' complaint and in authorizing the filing of Forms 10-K and certain Registration Statements by Enron. As a result of that reasonable reliance, Mark-Jusbasche did not know, in the exercise of reasonable diligence could not have known, and had no reasonable grounds to believe that Enron's public filings contained any material misrepresentations or omissions. After reasonable investigation, Mark-Jusbasche had reasonable ground to believe, and did believe, at the time the registration statement at issue became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

**Sixth Defense: Reasonable Diligence and Reliance Upon Arthur Andersen**

Mark-Jusbasche was entitled to, and did, rely upon recommendations, statements and representations of Arthur Andersen, its affiliated entities and partners and officers therein, in connection with her decisions to authorize the transactions challenged in Plaintiffs' complaint and in authorizing the filing of Forms 10-K and certain Registration Statements by Enron. As a result of

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that reasonable reliance, Mark-Jusbasche did not know, in the exercise of reasonable diligence could not have known, and had no reasonable grounds to believe that Enron's public filings contained any material misrepresentations or omissions.

**Seventh Defense: Reliance Upon Expertised Opinions**

Mark-Jusbasche was entitled to, and did, rely upon the opinions of professionals and experts in affixing her signatures to, and authorizing the filing of, Registration Statements, Forms 10-K and various offering documents by Enron. Mark-Jusbasche believed that these experts were, in fact, expert in their field and were competent to render the opinions they had provided. Mark-Jusbasche had no notice that the opinions provided by these experts were in any way inadequate, unfounded or incorrect as to the matters on which the experts had opined. This affords Mark-Jusbasche a complete defense to liability as to claims under the Securities Act of 1933.

**Eighth Defense: Reliance Upon Advice of Counsel**

Mark-Jusbasche was entitled to, and did, rely upon the advice of Enron's counsel in authorizing the transactions that are challenged in the Complaint, and in authorizing the filing of Registration Statements, Forms 10-K and various offering documents by Enron. Mark-Jusbasche had no notice that the advice she received from Enron's counsel was in any way inadequate, unfounded or incorrect as to the matters upon which advice had been rendered to them and to Enron. This affords Mark-Jusbasche a complete defense to liability as to claims under the Securities Act of 1933.



### **Ninth Defense: Proportionate Fault**

The provisions of the Private Securities Litigation Reform Act require that the liability of “outside directors” under 15 U.S.C. § 77k (Section 11) be determined in accordance with the proportionate fault provisions of 15 U.S.C. § 78u-4. Mark-Jusbasche was chairman of the board and chief executive officer of a publicly held corporation – Azurix Corporation – for the entire time during which she served as director and, as such, is entitled to a submission asking the jury to assess her percentage of fault as an “outside director,” and the percentage of fault (if any) of the other persons or entities that the jury finds contributed to cause the harm alleged by the Plaintiffs. This assessment must be submitted for her individually for the single offering as to which she is alleged to have violated the provisions of the Securities Act of 1933, namely, the 7% Notes. If she is determined not to be an “outside director,” and in the unlikely event that she is found liable under 15 U.S.C. § 77k (Section 11), then under §77k(f) she is entitled to “recover contribution as in cases of contract” from any person who, if sued separately, would have been likely to make the same payment. Accordingly, Mark-Jusbasche is entitled to a submission asking the jury to assess her percentage of fault proportionately, and the percentage of fault (if any) of the other persons or entities that the jury finds contributed to cause the harm alleged by the Plaintiffs. This assessment must be submitted, individually, for the single offering as to which she is alleged to have violated the provisions of the Securities Act of 1933, namely, the 7% Notes.

### **Tenth Defense: Standing**

Certain Plaintiffs lack standing to pursue the claims that they have sought to pursue against Mark-Jusbasche.

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**Eleventh Defense: No Material Misrepresentation or Omission**

Mark-Jusbasche was advised, understood and believed that there were no misrepresentations or omissions in the public securities filings of Enron, or in its public statements, at the time that they were made. Plaintiffs' claims against Mark-Jusbasche are barred, in whole or in part, because the relevant registration statement did not contain any misrepresentations or omissions or because the misrepresentations or omissions relied upon or alleged by Plaintiffs were not material.

**Twelfth Defense: Knowledge and Lack of Diligence by Plaintiffs**

Enron's public filings and public statements disclosed to Plaintiffs the facts they now contend were concealed from, or misrepresented to, them. Plaintiffs also failed to exercise due care with respect to the transactions on which their claims are premised.

**Thirteenth Defense: Reasonable Diligence by Mark-Jusbasche**

Plaintiffs claims are barred because Mark-Jusbasche at all times acted with reasonable care and diligence with respect to the matters Plaintiffs now contend were misrepresented by, or omitted from, Enron's public filings and public statements.

**Fourteenth Defense: Lack of Proximate Cause**

The actions or inactions of Mark-Jusbasche were not the sole proximate cause, or the joint proximate cause, of any of the injuries alleged by Plaintiffs.

**Fifteenth Defense: Lack of Transaction Causation**

The actions or inactions of Mark-Jusbasche were not the sole or partial cause of any decision by any Plaintiff to purchase or sell Enron securities.

**Sixteenth Defense: Lack of Loss Causation**

The actions or inactions of Mark-Jusbasche were not the sole or the partial cause of any loss allegedly suffered by any Plaintiff.

**Seventeenth Defense: Superseding or Intervening Causation**

Plaintiffs' claims against Mark-Jusbasche are barred because the injuries Plaintiffs sustained, if any, were caused by the actions or inactions of parties other than Mark-Jusbasche, actions or inactions by parties outside the control of Mark-Jusbasche, or economic events that were, likewise, outside the control of Mark-Jusbasche. These actions, inactions and events were intervening or superseding causes of Plaintiffs' alleged damages.

**Eighteenth Defense: Assumption of the Risk**

Plaintiffs' claims against Mark-Jusbasche are barred, in whole or in part, because they assumed the risks disclosed in Enron's public disclosures and those risks came to fruition to cause Plaintiffs' losses. Plaintiffs who purchased with knowledge of these risks, or knowledge of adverse events at Enron, likewise assumed the risks that there would be further deterioration in the price or value of Enron's securities, such that their damages are not recoverable as a matter of law.

**Nineteenth Defense: Failure to Mitigate**

Enron's stock declined over a prolonged period of time as a result of market circumstances and disclosed business reversals suffered by Enron. These events continued to cause Enron's securities to decline in price over time. Plaintiffs who failed to sell their Enron securities, in the face of this disclosed information, failed to take reasonable steps to mitigate their damages and therefore cannot recover all or part of the damages they seek to recover from Mark-Jusbasche.

#### **Twentieth Defense: Truth on the Market**

When Plaintiffs purchased their Enron securities, the total mix of information in the market disclosed the truth about Enron, such that the price of the securities Plaintiffs purchased reflected the effect of the transactions and events Plaintiffs contend were concealed or misrepresented.

#### **Twenty-First Defense: Lack of Signature or Resignation as a Director**

Mark-Jusbasche is not liable to Plaintiffs in connection with any offering (i) which did not occur during her term as director, or (ii) which occurred outside her term as director, or (iii) as to which she did not sign the Registration Statement, or (iv) as to which her name was included in the Registration Statement without her consent.

#### **Twenty-Second Defense: Private Placement**

Section 11 of the Securities Act of 1933 does not afford a remedy to purchasers who bought their securities in a private placement pursuant to Rule 144A. Claims by any such purchasers are barred as a matter of law.

#### **Twenty-Third Defense: Secondary Market Purchases**

Section 11 claims by secondary market purchasers are barred to the extent they fail to plead and prove reliance upon the alleged misrepresentations or omissions.

#### **Twenty-Fourth Defense: Excess Damages**

Plaintiffs are limited to only those damages authorized by the Securities Act of 1933 and the Private Securities Litigation Reform Act and therefore may not recover damages in excess of those authorized by these statutes or the regulations promulgated pursuant to these statutes.

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**Twenty-Fifth Defense: Requirement to Prove Reliance**

Any Plaintiff who acquired an Enron security after Enron made generally available to its security holders an earnings statement covering a period of twelve months after the effective date of a registration statement is barred from recovery under Section 11, because Plaintiffs cannot prove reliance upon any alleged misstatements or omissions contained in the Registration Statement.

**Twenty-Sixth Defense: Requirement of Tracing**

Plaintiffs' claims against Mark-Jusbasche are barred, in whole or in part, because Plaintiffs cannot prove that they purchased securities traceable to a registration statement.

**Twenty-Seventh Defense: Reliance On Board Committees**

Plaintiffs' claims against Mark-Jusbasche under Section 11 of the Securities Act are barred against Mark-Jusbasche because Mark-Jusbasche reasonably relied upon findings and recommendations of Committees of the Enron Board of Directors concerning any part of the registration statement(s) as to which such Committees made recommendations to the Board, and had, after reasonable investigation, reasonable ground to believe and did believe, at the time such part of the registration statement became effective, that the statements therein were true and that there was no omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

**Twenty-Eighth Defense: Lack of Statutory Control**

Plaintiffs' claims against Mark-Jusbasche under Section 15 of the Securities Act have already dismissed been by the Order of March 25, 2003 (Inst. # 1300), and in any event are barred because

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Mark-Jusbasche did not have “control” over any person liable under sections 77(k) or 77(l) of the Securities Act of 1933, as the term “control” is defined in the statute.

**Twenty-Ninth Defense: Aiding and Abetting**

Plaintiffs’ claims against Mark-Jusbasche under Section 15 of the Securities Act have already been dismissed by the Order of March 25, 2003 (Inst. # 1300), and in any event are also barred because Mark-Jusbasche did not aid or abet the issuer of the securities.

**Thirtieth Defense: Lack of Knowledge**

Plaintiffs’ claims against Mark-Jusbasche under Section 15 of the Securities Act have already been dismissed by the Order of March 25, 2003 (Inst. # 1300), and in any event are barred because Mark-Jusbasche had no knowledge of or reasonable ground to believe in the existence of facts by reason of which the liability of any “controlled person” is alleged to exist.

**Thirty-first Defense: Good Faith**

Plaintiffs’ claims against Mark-Jusbasche under Section 15 of the Securities Act have already been dismissed by the Order of March 25, 2003 (Inst. # 1300), and in any event are also barred because Mark-Jusbasche acted in good faith.

Respectfully submitted,

GRAVES, DOUGHERTY, HEARON & MOODY  
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### CERTIFICATE OF SERVICE

I hereby certify that true and correct copy of the above and foregoing document has been served by posting the same to the website pursuant to the order entered by United States District Judge Melinda Harmon, Southern District of Texas, Houston Division, in Civil Action No. H-01-3624 (Consolidated Cases) (Instrument # 819), on this the 18<sup>th</sup> day of June, 2003.

I further certify that a copy of the foregoing has been served via Certified Mail Return Receipt Requested on the following parties who do not accept service by electronic mail on the 18<sup>th</sup> day of June, 2003.

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